

complaint

Mr Y is unhappy TSB Bank plc has refused to refund the money he lost after falling victim to a scam.

background

On 30 August 2018 Mr Y asked the bank to transfer £2,790 to a third party to pay for a car he'd seen for sale on a social media site. He expected the car to be delivered the next day, but realised he'd fallen victim to a scam when it didn't arrive and the third party ignored his subsequent contact attempts.

Mr Y reported the matter to TSB on 1 September 2019 and it was able to reclaim £10 of the payment from the receiving bank – the remainder had already been withdrawn. TSB refused to refund the rest of the money. Mr Y was unhappy, so asked us to look into his complaint.

I issued a provisional decision last month setting out why I didn't think Mr Y's complaint should be upheld. I said, in summary, that:

- All parties accepted it was Mr Y who went into branch, deposited some cash and then told the bank to make the transfer to, what turned out to be, a fraudster. And, in broad terms, the starting position in law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of their account. So TSB had an obligation to follow Mr Y's instructions. But I also thought, taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, TSB should have been on the lookout for unusual and out of character transactions.
- I looked at the way Mr Y used his account in the months leading up to the scam. And I noted he occasionally paid in, and sometimes withdrew or transferred, larger amounts in relatively short succession. And sometimes those larger payments were sent to accounts which weren't identifiable as his own. In the circumstances, I wasn't persuaded the activity on the day in question was particularly unusual or suspicious compared to how Mr Y used the account before such that TSB should have been alerted to the possibility he might have been at risk of financial harm and so questioned him further.
- I would have expected TSB to have contacted the receiving bank promptly after Mr Y reported the scam to try and recover his money. It wasn't clear when exactly the bank did this but its notes indicated it received a reply on 3 September, advising that only £10 remained in the account. I noted that, in my experience, fraudsters will often withdraw money soon after it's transferred into the recipient's account. But I said TSB needed to show me that it did make prompt attempts to contact the receiving bank and that the money had already been withdrawn at that point.

In response to my provisional decision, TSB noted my concern about the lack of evidence showing when it contacted the receiving bank, but couldn't provide any additional, supporting evidence. So our investigator contacting the receiving bank which confirmed that all but £10 of the money was transferred out of the recipient's account the same day Mr Y sent it.

Mr Y didn't add anything in response to my provisional decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I'm now satisfied the majority of the money Mr Y sent to the fraudster had already been moved out of the recipient's account by the time Mr Y reported the matter to TSB. So TSB couldn't have recovered more than £10.

As neither party has sent any further evidence or arguments for me to consider, I see no reason to depart from the conclusions set out in my provisional decision and summarised above.

my final decision

My final decision is that I don't uphold this complaint and I make no award of compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 9 January 2021.

Ruth Hersey
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